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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,660	11/29/2001	Paul James Davis	C7535(V)	7543
201	7590	11/22/2004	EXAMINER	
UNILEVER PATENT DEPARTMENT 45 RIVER ROAD EDGEWATER, NJ 07020			RAO, MANJUNATH N	
			ART UNIT	PAPER NUMBER
			1652	

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/998,660

Applicant(s)

DAVIS ET AL.0

Examiner

Manjunath N. Rao, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-24 is/are allowed.
- 6) ☒ Claim(s) 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/742,690.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 18-25 are currently pending and are present for examination.

Applicants' amendments and arguments filed on 8-23-04 have been fully considered and are deemed to be persuasive to overcome the rejections previously applied. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. Specifically, Examiner has withdrawn the previously held obviousness rejection under 35 U.S.C. 103(a) in view of persuasive arguments to overcome the above rejection. Examiner has also withdrawn one of the previously held Double patenting rejections in view of a proper Terminal Disclaimer filed by the applicant. However, the other Double patenting rejection is maintained since applicants have not filed a T.D. covering those patents.

Specification

Examiner notes that applicants have not updated the relationship of the instant application to its parent application. Examiner urges applicants to provide said information on the first line of the specification in response to this Office action.

The disclosure is also objected to because of the following informalities: The specification fails to provide figure descriptions for figures 1-4. Appropriate correction is required.

Sequence Compliance

Applicant is required to comply with the sequence rules by inserting the sequence identification numbers of all sequences recited within the claims and/or specification. It is particularly noted that applicants fail to provide a SEQ ID NO for the sequence depicted in figure

1. See particularly 37 CFR 1.821(d).

Terminal Disclaimer

The terminal disclaimer filed on 11-2-04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of a patent granted on application 09/742,690 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 25 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 and 17 of U.S. Patent 6,586,384 and claims 1, 14

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and 16 of US Patent 6,579,842. An obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but an examined application claim is not patentably distinct from the reference claim, because the examined claim is either anticipated by, or would have been obvious over the reference claim. See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi* 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985). Although the conflicting claims are not identical, they are not patentably distinct from each other. Claim 25 of the instant application and claims 1-3 and 17 (of U.S. Patent 6,586,384) and claims 1, 14 and 16 (of US Patent 6,579,842) of the reference patents are both directed to method of delivering a benefit agent to a fabric by treating it with a composition comprising the binding molecule wherein the binding molecule is a fusion protein comprising a domain which binds to a fabric, i.e., a cellulose binding domain and a domain having a high binding affinity to another ligand. In the method claimed in the instant application and in the reference application there are identical steps and materials (i.e., fusion protein) used. The portion of the specification that supports the recited method claimed in claims 1-3 and 17 (of U.S. Patent 6,586,384) and claims 1, 14 and 16 (of US Patent 6,579,842) of the reference patents includes embodiments that would anticipate the method claimed in the instant application. Claim 25 of the instant application listed above cannot be considered patentably distinct over claims 1-3 and 17 (of U.S. Patent 6,586,384) and claims 1, 14 and 16 (of US Patent 6,579,842) of the reference patents when there is specifically recited embodiment that would anticipate mainly claim 25 of the instant application.

Alternatively, claim 25 cannot be considered patentably distinct over claims of the reference patents when there is specifically disclosed embodiment in the reference patents that supports

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claims of those patents and falls within the scope of claim 25 herein because it would have been obvious to one having ordinary skill in the art to modify claims of the reference patents by making it more broader. One of ordinary skill in the art would have been motivated to do this because that embodiment is disclosed as being a preferred embodiment within claims of the reference patents.

In response to the previous Office action as well as an oral request by the Examiner for a Terminal Disclaimer, applicants have failed to file a proper T.D. in response to the above rejection. Hence the above rejection is maintained.

Conclusion

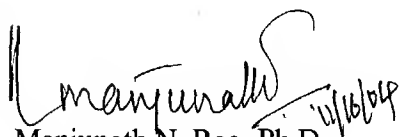
Claims 18-24 are allowable.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Manjunath N. Rao, Ph.D. whose telephone number is 571-272-0939. The Examiner can normally be reached on 7.00 a.m. to 3.30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ponnathapura Achutamurthy can be reached on 571-272-0928. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306/9307 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.


Manjunath N. Rao, Ph.D.
Primary Examiner
Art Unit 1652

November 16, 2004